

§215.3

(e) *County* means any unit of local general Government which is classified as a county by the Bureau of the Census and within the political boundaries of which 500 or more persons are regularly employed by all agencies of the Federal Government.

(f) *County income or employment taxes* means any form of tax for which, under a county ordinance:

(1) Collection is provided by imposing on employers generally the duty of withholding sums from the pay of employees and making returns of the sums to a designated county officer, department, or instrumentality; and

(2) The duty to withhold generally is imposed on the payment of compensation earned within the jurisdiction of the country in the case of employees whose regular place of employment is within such jurisdiction. Whether the tax is described as an income, wage, payroll, earnings, occupational license, or otherwise, is immaterial.

(g) *District of Columbia income tax* means the income tax imposed under 47 District of Columbia Code, chapter 15, subchapter II.

(h)(1) *Employees* for the purpose of State income tax withholding, means all employees of an agency, other than members of the armed forces. For city and county income or employment tax withholding, it means:

(i) Employees of an agency;

(ii) Members of the National Guard, participating in exercises or performing duty under 32 U.S.C. 502; or

(iii) Members of the Ready Reserve, participating in scheduled drills or training periods, or serving on active duty for training under 10 U.S.C. 270(a).

The term does not include retired personnel, pensioners, annuitants, or similar beneficiaries of the Federal Government, who are not performing active civilian service or persons receiving remuneration for services on a contract-fee basis.

(2) *Employees* for purposes of District of Columbia income tax withholding, means employees as defined in 47 District of Columbia Code 1551c(z).

(i) *Members of the Armed Forces* means all individuals in active duty status (as defined in 10 U.S.C. 101(22)) in regular and reserve components of the Army, Navy, Air Force, Marine Corps, and

31 CFR Ch. II (7–1–02 Edition)

Coast Guard, including members of the National Guard while participating in exercises or performing duty under 32 U.S.C. 502, and members of the Ready Reserve while participating in scheduled drills or training periods or serving on active duty for training under 10 U.S.C. 270(a).

(j) *Ordinance* means an ordinance, order, resolution, or similar instrument which is duly adopted and approved by a city or county in accordance with the constitution and statutes of the state in which it is located and which has the force of law within such city or county.

(k) *Regular place of Federal employment* means the official duty station, or other place, where an employee actually and normally (i.e., other than in a travel or temporary duty status) performs services, irrespective of residence.

(l) *Secretary* means Secretary of the Treasury and Fiscal Assistant Secretary or his designee.

(m) *State* means a State of the United States or the District of Columbia, unless otherwise specified.

(n) *State income tax* means any form of tax for which, under a State status:

(1) Collection is provided, either by imposing on employers generally the duty of withholding sums from the compensation of employees and making returns of such sums to the State or by granting to employers generally the authority to withhold sums from the compensation of employees, if any employee voluntarily elects to have such sums withheld; and

(2) The duty to withhold generally is imposed, or the authority to withhold generally is granted, with respect to the compensation of employees who are residents of such State.

[42 FR 33731, July 1, 1977, as amended at 55 FR 3590, Feb. 2, 1990; 55 FR 7494, Mar. 2, 1990]

Subpart B—Procedures

§215.3 Relationship of Standard Agreement to existing agreements.

(a) Subpart C of this part is the Standard Agreement which the Secretary will enter into with a State, city or county. This Standard Agreement replaces all prior agreements between the Secretary and the State or

Fiscal Service, Treasury

§215.6

city covering the withholding of income or employment taxes from the compensation of Federal employees. The Standard Agreement is essentially the same as the prior agreements. A State or city which currently is a party to an agreement with the Secretary covering the withholding of income or employment taxes from the compensation of Federal employees does not need to apply for a new agreement under this part. A State or city currently a party to an agreement will be presumed to have consented to be bound by the terms of the Standard Agreement (subpart C). If a State or city, which is currently a party, does not want to be bound by the Standard Agreement, it shall notify the Fiscal Assistant Secretary, Department of the Treasury, Washington, DC 20220, in writing over the signature of an officer authorized to bind contractually the State or city within 90 days of the effective date of this part. The procedures of §215.5 shall be followed by a State or city which proposes to be bound by an agreement other than the Standard Agreement.

(b) The effective date for the replacement of existing State or city Standard Agreements by the Standard Agreement appearing as subpart C of this part is the effective date of this part. For current other-than-Standard Agreements, it is 120 days after the effective date of this part unless an earlier effective date is specifically agreed to or a new agreement which is other than the Standard Agreement of subpart C, is entered into as provided in this subpart.

§215.4 Procedures for entering into a Standard Agreement.

(a) A State, city or county which does not have an existing agreement and wishes to enter into a Standard Agreement shall indicate in a letter its agreement to be bound by the provisions of subpart C. The letter shall be addressed to the Fiscal Assistant Secretary, Department of the Treasury, Washington, DC 20220, and be signed by an officer authorized to bind contractually the State, city or county. Copies of all applicable State laws, city or county ordinances and implementing regulations, instructions, and forms

shall be enclosed. The letter shall also indicate the title and address of the official whom Federal agencies may contact to obtain forms and other information necessary to implement withholding.

(b) Within 120 days of the receipt of the letter from the State, city or county official, the Fiscal Assistant Secretary will, by letter, notify the State, city or county:

(1) That the Standard Agreement has been entered into as of the date of the Fiscal Assistant Secretary's letter, or

(2) That an agreement cannot be entered into with the State, city or county and the reasons for that determination.

The withholding of the State, city or county income or employment tax shall commence within 90 days after the effective date of the agreement.

§215.5 Procedures for an agreement other than a Standard Agreement.

(a) If a State, city or county proposes an agreement which varies from the Standard Agreement, the State, city or county shall follow the procedure in §215.4(a), except that its letter shall indicate which provisions of the Standard Agreement are not acceptable and the basis therefor, and propose substitute provisions.

(b) Within 60 days of the receipt of the letter from the State, city or county official, the Fiscal Assistant Secretary will notify the State, city or county which substitute provisions may be included in the agreement. The State, city or county shall, by letter, notify the Fiscal Assistant Secretary if it accepts such an agreement. When accepted by the State, city or county the effective date of that agreement shall be the date such acceptance letter is received by the Fiscal Assistant Secretary. The withholding of the State, city or county income or employment tax shall commence within 90 days after the effective date of the agreement.

Subpart C—Standard Agreement

§215.6 In general.

This subpart is the text of the Standard Agreement between the Secretary and the State, city or county. The